



Docket No. 2024750-7015272001
(247/212)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:

Lone Wolinsky, et al

Serial No.: 09/522,724

Filed: March 10, 2000

For: SYSTEMS AND METHODS FOR
DEPLOYING A BIOSENSOR WITH A
STENT GRAFT

Group Art Unit: 3731

Confirmation No.: 5199

Examiner: Vy Q. Bui

PETITION FOR EXTENSION OF TIME (One Month)

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

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MAY 26 2004
TECHNOLOGY CENTER R3700

Sir,

Applicants submit this petition and fee for extension of time for **one month** to maintain pendency required to file the enclosed Notice of Appeal for the above identified application. Applicants respectfully note the following:

In response to the Final Office Action mailed November 18, 2003, Applicants timely submitted via fax a Response After Final on January 15, 2004 to the United States Patent and Trademark Office, i.e., *within two months from the date of the mailing of the Final Office Action.*

Upon non-receipt of any further communication, e.g., an Advisory Action, from United States Patent and Trademark Office by April 19, 2004, at the direction of the undersigned attorney, Maritza Kidd telephoned the Examiner to inquire about the status of

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the Response to the Final Office Action. At the Examiner's request, Ms. Kidd re-transmitted the Response, along with a declaration that the Response was originally submitted on January 15, 2004.

However, an Advisory Action was not mailed until May 11, 2004, well after the shortened statutory period of three months had expired.

According to the MPEP 706.07 (f), if an Applicant replies within 2 months from the mailing date of a final rejection, and an Advisory Action is mailed before the end of 3 months from the date of mailing of the final rejection, the shortened statutory period will expired at the end of the 3 months from the date of mailing of the final rejection. *"If the Examiner, however, does not mail an Advisory Action until **after** the end of the 3-month period, the shortened statutory period will expire on the date the Examiner mails the Advisory Action and any extension of time fee would be calculated from the mailing date of the Advisory Action"*

As evidenced herein, the mailing of the Advisory Action was not until May 11, 2004, long after the end of the 3 months period, even though the Response to the Final Office Action was submitted January 15, 2004, the later being timely submitted within two months of the mailing of the Final Office Action.

As such, the extension of time is properly calculated from the mailing date of the Advisory Action (5/11/04), and just one month extension fee is required.

Submitted herewith is the declaration of David T. Burse in support of the requested petition for extension of time of one month, as well as supporting documentation, attached as Exhibits A to C.

Although no additional fee is believed to be required, the Commissioner is hereby authorized to charge any fee which may be required, or credit any overpayment to Deposit Account No. **50-2518**.

Respectfully submitted,
BINGHAM McCUTCHEN LLP

Dated: May 18, 2004

By: 

David T. Burse
Reg. No. 37,104

Customer Number
23639
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Enclosures: Exhibits A-C

**DECLARATION OF DAVID T. BURSE IN SUPPORT OF
PETITION FOR EXTENSION OF TIME (One Month)**

1. I, David T. Burse, am a partner of the law firm of Bingham McCutchen LLP, and the attorney-of-record for U.S. Patent Application Serial No. 09/522,724.
2. On January 15, 2004, a Response to Final Office Action for the referenced-application was submitted to the United States Patent and Trademark Office. According to the facsimile reports, the response was successfully transmitted to the United States Patent and Trademark Office on January 15, 2004. True and correct copies of the facsimile reports, the transmittal (including certificate of mailing under 37 C.F.R. §1.81a), as well as Response to the Final Office Action, are attached hereto as Exhibit A. True and correct copies of the re-transmittal of the Response and facsimile report dated April 19, 2004, along with a declaration of original submission on January 15, 2004, are attached hereto as Exhibit B. A copy of Advisory Action mailed on May 11, 2004 is attached hereto as Exhibit C.
3. All statements made of my knowledge are true and that all statements made on information an/or belief are believed to be true; and, further, that these statements are made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any registration resulting therefore.

Respectfully submitted,
BINGHAM McCUTCHEN LLP

Dated: May 18, 2004

By: 
David T. Burse
Reg. No. 37,104